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**STATE PROCUREMENT OFFICE  
NOTICE OF AND REQUEST FOR EXEMPTION  
FROM CHAPTER 103D, HRS**

PROCUREMENT OFFICE  
STATE OF HAWAII

1. TO: Chief Procurement Officer  
2. FROM: Department of Human Services/Hawaii Public Housing Authority

Department/Division/Agency

Pursuant to §103D-102(b)(4), HRS, and Chapter 3-120, HAR, the Department requests a procurement exemption to purchase the following:

3. Description of goods, services or construction:

Purchase and installation of up to 41 instantaneous gas water heater systems to include: 1) upgrade to existing check meter to accommodate added gas load; 2) purchase of up to 41 tankless water heating systems; 3) extend and install low pressure gas piping to gas heater on building roof; and 4) install and connect electrical power to gas water heaters.

57 2/11/11 *JS*

4. Name of Vendor: The Gas Company

Address: P.O. Box 3000

Honolulu, Hawaii 96802

5. Price:

\$acc attached

6.

Term of Contract: From: upon approval To: 5/31/11

7. Prior Exemption Ref. No.

8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:  
See attached

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:  
See attached

10. A description of the agency's internal controls and approval requirements for the exempted procurement:  
This exempted procurement requires the approval of the Office of the Executive Director and the Contract and Procurement Office. The Construction Management Branch will be responsible to monitor the Contractor's performance. Except for the requirement to engage in a competitive selection process, the HPHA does not intend to waive any other established controls. HRS section 103D-31(c) and HAR section 3-122-112 shall continue to apply.

## REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

12. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:			
Name	Position	Involvement in Process	
Becky Choi	Acting State Housing Dev. Admin.	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Rick Sogawa	Acting Procurement Officer	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
Barbara Arashiro	Executive Assistant	<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration

13. Direct inquiries to:	Department: Contract and Procurement
	Contact Name: Rick Sogawa
	Phone Number: 832-6038
	Fax Number: 832-6039

Agency shall ensure adherence to applicable administrative and statutory requirements

14. I certify that the information provided above is, to the best of my knowledge, true and correct.


  
 Department Head

FEB - 9 2011

Date

15. Date Notice Posted <u>2/10/2011</u>	
<p>The Chief Procurement Officer is in the process of reviewing this request for exemption from Chapter 103D, HRS. Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven calendar days or as otherwise allowed from the above posted date to:</p> <p>Chief Procurement Officer          State Procurement Office          P.O. Box 119          Honolulu, Hawaii 96810-0119</p>	
Chief Procurement Officer's comments:	
SEE ATTACHED CPO COMMENTS	

16. ☒ APPROVED ☐ DISAPPROVED ☐ NO ACTION REQUIRED

  
 Chief Procurement Officer Date 2/11/2011

## **Attachment SPO – 7 Request for Exemption**

### **5. Price:**

Cost estimate: Approx. \$14,000 per tankless system; not to exceed \$798,000 for 57 tankless systems. Purchase subject to the availability of funds.

### **8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:**

Of the 35 buildings at Mayor Wright Homes, some have solar panels/tanks that are working, but on cloudy days the electrical back-up does not work. On other buildings, the solar systems have prematurely reached the end of their useful life and the solar tanks are leaking. The State inspector has indicated that without the necessary repairs the HPHA will be forced to shut down the water tanks on several buildings. (Note: The repairs to the leaking tanks would not be practicable in light of the impending comprehensive upgrade to the entire system, would be cost prohibitive, and not timely enough to provide relief for the tenants.)

As background, the HPHA was previously working with a consultant to design and oversee the installation of a comprehensive solar heating system at Mayor Wright Homes. The original consultant went bankrupt before completing the design work on the major system. The HPHA made several attempts to obtain the partial design work, which after review led the HPHA to conclude that the partial design is not useable. The default on this contract caused a delay in the project and since then several more tanks have begun to fail. While the HPHA has competitively engaged the services of a new consultant to design the long term upgrade of the entire solar system, the HPHA needs to install the back-up instant hot water back-up systems at Mayor Wright Homes to provide immediate relief to the tenants.

### **9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:**

The HPHA is requesting exemption from §103D, HRS to hire The Gas Company to install instant hot water back-up systems at Mayor Wright Homes.

The HPHA intends to use gas back-up systems and check motors on the new solar system being designed. The Gas Company has installed several gas tankless water heaters at Mayor Wright Homes which have proved to be reliable. After installation, they provided training to the project staff to perform preventative maintenance on the system. The Gas Company is also currently the sole provider of the gas for the tankless systems and the gas check meter. Prior HcPS procurements with other vendors, resulted in The Gas Company having to come in and install additional hardware. During initial discussions, The Gas Company reported that they have tankless systems in stock, thus there will be no delay in the start of the project.

The instant hot water systems installed under this exemption will remain in place when the new solar system is installed and serve as the back-up system. The HPHA will execute a task order contract subject to the availability of funds.

**Due to their knowledge and past satisfactory experience at Mayor Wright Homes, we believe it in the best interests to work with The Gas Company for the purchase and installation of the instantaneous gas water heater systems.**

CPO COMMENTS:

This request for exemption from Chapter 103D, HRS is a follow up to the attached emergency procurement request (EP11-016-R), that was disapproved on 02/09/11. There is insufficient justification as to why award should be limited to the named vendor, The Gas Company. There is no information on whether other prospective vendors were contacted to justify that this exemption would be the most advantageous to the State. Potential vendors should be afforded the opportunity to provide a price quotation for the required equipment and services allowing for open broad based competition, thus assuring the State a fair price. In balancing fairness, open competition, transparency and the urgent nature of this request, DHS/HPHA's request for exemption is approved to allow HPHA an abbreviated and expedited procurement process to secure a contractor(s) to address the urgent situation of supplying hot water for the tenants at the Mayor Wright Homes with the following conditions:

1. The HPHA shall solicit on the Hawaii Electronic Procurement System (HePS) to obtain price quotations for the purchase and installation of up to 57 tankless water heating systems with the cost not to exceed \$798,000. The scope of work shall clearly state the specifications, and include requirements such as the urgent nature of the procurement requiring immediate response by the awarded contractor, and that this procurement is conducted under an exemption;
2. The solicitation shall be conducted on the HePS for a minimum of three working days. There are dozens of vendors already signed up in the category for water heaters on HePS which will allow for a broad based, fair and open competition for all prospective contractors/vendors. For added efficiency, HePS will automatically notify the prospective parties who will be afforded the opportunity to provide a price quotation for the required equipment and services; thus assuring the State a fair price;
3. The HPHA shall also contact known prospective contractors/vendors directly to ensure prospective parties are aware of this solicitation and are registered in HePS with the selected commodity code that would assure receipt of the HePS e-mail notification;
4. Approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply; and
5. This award is required to be posted on the Awards Reporting System.



11 FEB -9 AIO:35

STATE PROCUREMENT OFFICE  
EMERGENCY PROCUREMENT REQUEST

1. TO: Chief Procurement Officer

2. FROM: Department of Human Services/Hawaii Public Housing Authority

Department/Division/Agency

Pursuant to §103D-307, HRS, and Subchapter 10, Chapter 3-122, HAR, the Department requests approval for the following:

3. Date 2/8/2011

4. After the fact ☒ YES ☐ NO

5. Nature of the Emergency

See attached description.

6. Vendor: The Gas Company

Address: P.O. Box 3000

Honolulu, Hawaii 96802

7. Price:

See attached

8. Description of goods, services, or construction to be purchased

Purchase and installation of up to 41 instantaneous gas water heater systems to include: 1) upgrade to existing check meter to accommodate added gas load; 2) purchase of up to 41 gas tankless water heating systems; 3) extend and install low pressure gas piping to gas heater on building roof; and 4) install and connect electrical power to gas water heaters.

9. Reason for Vendor Selection

See attached reason for selection of The Gas Company.

10. Direct questions to: Rick Sogawa

Phone: 832-6038

11. I certify that the information provided above is to the best of my knowledge, true and correct.

2/8/2011

Department Head

Date

12. Chief Procurement Officer's comments:

Request is disapproved as it does not meet the requirements for an emergency procurement, and is not an appropriate use of the emergency procurement provision. We understand the HPHA has long been aware of the solar panels/tanks deteriorated condition requiring repair/replacement. Emergency procurements are to address unanticipated serious situations that require immediate action by a governmental agency that may affect the health and safety of the general public. This situation is a consequence of poor management and lack of proper timely response which resulted in the current situation. The emergency procurement process is not to be used to rectify a situation that was preventable and caused by poor management.

The HPHA should properly manage these types of maintenance/service requirements and competitively solicit for such services on a timely basis, and not rely on emergency procurement provisions. To immediately address this situation, the SPO is willing to consider a request for exemption (SPO-007), which should include adequate justification to substantiate and justify why it is not practicable, nor advantageous to competitively solicit your requirements.

☐ APPROVED ☒ DISAPPROVED ☐ NO ACTION REQUIRED

Chief Procurement Officer

2/9/2011  
Date

14. E.P.No.

11-016-R

## **Attachment SPO – 2**

### **Emergency Procurement Request**

#### **5. Nature of the Emergency**

The HPHA is requesting approval to execute an emergency procurement to install instant hot water back-up systems at Mayor Wright Homes.

Of the 35 buildings at Mayor Wright Homes, some have solar panels/tanks that are working, but on cloudy days the electrical back-up does not work. On other buildings, the solar systems have prematurely reached the end of their useful life and the solar tanks are leaking. The State inspector has indicated that without the necessary repairs the HPHA will be forced to shut down the water tanks on several buildings. (Note: The repairs to the leaking tanks would not be practicable in light of the impending comprehensive upgrade to the entire system, would be cost prohibitive, and not timely enough to provide relief for the tenants.)

As background, the HPHA was previously working with a consultant to design and oversee the installation of a comprehensive solar heating system at Mayor Wright Homes. The original consultant went bankrupt before completing the design work on the major system. The HPHA made several attempts to obtain the partial design work, which after review led the HPHA to conclude that the partial design is not useable. The default on this contract caused a delay in the project and since then several more tanks have begun to fail. While the HPHA has competitively engaged the services of a new consultant to design the long term upgrade of the entire solar system, the HPHA needs to install the back-up instant hot water back-up systems at Mayor Wright Homes to provide immediate relief to the tenants.

The instant hot water systems installed under this emergency procurement will remain in place when the new solar system is installed and serve as the back-up system. The HPHA will execute a task order contract subject to the availability of funds.

#### **7. Price**

Cost estimate: Approx. \$14,000 per tankless system; not to exceed \$798,000 for 57 tankless systems. Purchase subject to the availability of funds.

#### **9. Reason for Vendor Selection**

The HPHA intends to use gas back-up systems and check meters on the new solar system being designed. The Gas Company has installed several gas tankless water heaters at Mayor Wright Homes which have proved to be reliable. After installation, they provided training to the project staff to perform preventative maintenance on the system. The Gas Company is also currently the sole provider of the gas for the tankless systems and the gas check meter. Prior HePS procurements with other vendors, resulted in The Gas Company having to come in and install additional hardware. During initial discussions, The Gas Company reported that they have tankless systems in stock, thus there will be no delay in the start of the project.

Due to their knowledge and past satisfactory experience at Mayor Wright Homes, we believe it in the best interests to work with The Gas Company for the purchase and installation of the instantaneous gas water heater systems.

EP No. 11-016-R

PE No. 11-065-B

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